

DEPARTMENT OF ADMINISTRATION
Bureau of Human Resources

June 24, 1991

CIVIL SERVICE BULLETIN 11.14

TO: All Agency/Department Heads, Directors of
Administrative Service and Personnel Officers

SUBJECT: Treatment of Employees Returning from Desert Shield/
Desert Storm

By Federal law, State of Maine employees who left their State positions as part of Operation Desert Shield/Storm must be reemployed with the same employment status that they would have achieved had they never left.

The purpose of this Bulletin is to inform agencies of the rights and benefits that must be provided to all employees who were activated to military service and who will be returning to State service.

Provided these employees notify their appointing authority of their intent to return within 90 days of separation from military duty and return within a reasonable time period after notification, they must be provided with the following rights and benefits:

End of Probation (Affects employees who were on initial or promotional probation at the time they left employment for active duty).

The probationary period is considered to be an integral part of the examination process that must be completed before permanent status in the position is granted. Time on unpaid military leave will not count toward completion of the probationary period. The end of probation date in effect prior to the start of their unpaid leave must be advanced by the number of months and days on unpaid military leave. **Note: The first seventeen days of leave were treated as annual duty training, and this time plus any paid vacation and/or compensatory time that was authorized before the start of unpaid leave will count toward completion of probation.**

Performance Review and Salary Review Dates (Affects employees who had permanent employment status when ordered to active duty).

Performance and salary review dates that were in effect prior to the start of active duty will not be advanced as the result of unpaid military leave. Step increases that would have been granted if not for unpaid military leave must be processed and implemented upon the employee's return to State service and the

review dates advanced one year from the date the increase would have been awarded had the employee not been on unpaid military leave. Note: In the event that a salary review date falls within an employee's newly established probation dates, the salary review cannot be processed or granted until the employee completes probation.

Adjusted Service Date (Affects all employees)

The adjusted service date is not affected by the period of unpaid military leave. This date is used to determine adjustments to the vacation accrual rate, and the time on unpaid military leave will be counted as part of the employee's total and continuous service. Note: Employees will not earn any vacation credits during the period of unpaid military service.

Longevity Date (Affects all employees)

The longevity date is not affected by the period of unpaid military leave. This date is used to determine an employee's eligibility for fifteen-year or twenty-year longevity pay or bonus, and the time on unpaid military leave will count for this purpose.

Sick Leave (Affects all employees)

Employees will not earn any sick leave credits while on unpaid military leave.

Seniority (Affects all employees)

Seniority continues to accrue while the employee is on military leave.

Layoff, Bumping and Recall

The main point of the Federal Veteran's Reemployment Rights Law is to treat returning employees as if they had never left the job. In general, this means that if the employee would have been laid off due to the abolition of a position or by displacement by a more senior employee, the employee is entitled to receive all appropriate notice and displacement, bumping and recall rights that would have been offered to the employee had the employee never taken unpaid military leave. As noted above, seniority continues to accrue for all employees during their military leave.

Employees affected by layoff must be placed in pay status until such time as proper notification and election of layoff/bumping options has taken place.

Employees affected by layoff or transfer or demotion in lieu of layoff will be placed on appropriate layoff registers on the basis of accrued seniority and employment status.

Retirement

The Maine State Retirement System will be contacting employing agencies directly concerning retirement benefits and creditable time in the near future.

Health and Dental Insurance

All returning employees should be instructed to contact the Employee Health Insurance Program, or their personnel office for information concerning health and dental insurance benefits.

Questions or Problems Concerning Reemployment Rights

A copy of Department of Labor Fact Sheet OASVET-91-DS-1, "Job Rights for Desert Storm Reservists and Members of the National Guard" is attached for your information. This fact sheet and this Bulletin provide general guidance to the treatment of employees who return from military service.

Unusual circumstances may occur, however, that require special consideration and treatment. Agencies are requested to coordinate all questions, unusual situations, or exceptions to the provisions of this Bulletin with Freeman Wood of this office.

The Federal agency that will determine reemployment rights for employees returning from Desert Shield/Storm is the Veteran's Employment and Training Service, U. S. Department of Labor. The Bureau of Human Resources will coordinate the treatment of unusual circumstances as necessary with the local office in Lewiston. Clarifications to the application of this law to returning State employees will be published as necessary.



Nancy J. Kenniston, Director
BUREAU OF HUMAN RESOURCES

Attachment



U.S. Department of Labor Program Highlights

Fact Sheet No. OASVET-91-DS-1

JOB RIGHTS FOR DESERT STORM RESERVISTS AND MEMBERS OF THE NATIONAL GUARD

The Veterans' Employment and Training Service of the U. S. Department of Labor administers the Veterans' Reemployment Rights (VRR) law. This law is consistent with the nation's total force policy, which allows the integration of reserve and National Guard members to our military services to increase our military readiness. Reserve and National Guard members called to active duty during the Operation Desert Shield/Storm national emergency played a valuable role in the successful resolution of that conflict. The VRR law protects their job rights when they return to their civilian life.

As a reserve or National Guard member who served on active duty during Operation Desert Storm or Desert Shield, whether voluntarily or involuntarily, you generally have the same rights as returning veterans. You are entitled to return to your job if the following conditions are met: 1) it is likely that you would still have been on your job had you not left to serve in support of Operation Desert Storm; 2) you left your job to enter military service; 3) you received an other than dishonorable discharge; and 4) you apply for reemployment within 90 days after separation from active duty.

Your active duty service during a national emergency, such as Desert Storm, does not count toward the four-year service limit.

It is important to note that you should reapply for your job with your supervisor or someone who is authorized to represent the company for hiring purposes. The application can be made either orally or in writing. You should be reemployed as soon as possible after you reapply. This should usually take no longer than two weeks. If you had medical insurance, you should be covered upon returning to work.

A key part of the VRR law is that you should be treated as if you had never left your job. This means that you should receive the same seniority, status and rate of pay that you would have had if you had been employed continuously.

You also are entitled to benefits that are based on seniority, such as pensions and pay increases. If part of your pension plan requires an employee contribution, however, you may have to contribute for the period of time that you were on active duty.

Depending on certain factors, you may be entitled to either a better or lesser job than the one you left. The main point of the VRR law is to treat you as if you had never left your job. Unfortunately, this means that if while you were absent, your employer underwent a layoff and had you never left, you too would have been laid off, you may be returning to a recall list.

When you report back to work, it must be with the same seniority, status, pay, vacation, and any other benefits you would have had if you had not been absent for military service. Your employer cannot discriminate against you in considering promotions or transfers because of your military obligations. If you became disabled while on military service and thus unable to perform your preservice job, you are entitled to another job that you can perform with the same seniority, status and pay, or nearest approximation, as your former job. In addition, upon reemployment, you may not be discharged without cause for up to one year.

If you are looking for a job, your military obligations cannot be used to discriminate against you in the hiring process.

If questions or problems arise concerning your rights, contact the Veterans' Employment and Training Service of the U. S. Department of Labor in the U. S. Government section of the telephone book, or call 1-800-4422-VET. Federal employees should contact the Office of Personnel Management or the National Committee for Employer Support of the Guard and Reserve for assistance.

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